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EXAMINER
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1   RECORD OF ORAL HEARING

2   UNITED STATES PATENT AND TRADEMARK OFFICE

3   _____

4   BEFORE THE BOARD OF PATENT APPEALS

5   AND INTERFERENCES

6   _____

7   *EX PARTE* BARRY APPELMAN, LARRY L. LU, and JIAN WANG
8   _____

9   Appeal 2009-0633
10   Application 09/842,024
11   Technology Center 2400
12   _____

13   Oral Hearing Held: March 18, 2009

14   _____

15   Before HOWARD B. BLANKENSHIP, JAY P. LUCAS, and THU A.

16   DANG, *Administrative Patent Judges.*

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19   APPEARANCES:

20   ON BEHALF OF THE APPELLANTS:

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1   The above-entitled matter came on for oral hearing on Wednesday,

2   March 18, 2009, at The U.S. Patent and Trademark Office, 600 Dulany

3   Street, Alexandria, Virginia, before Victor Lindsay, Notary Public.

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5   MS. BOBO-ALLEN: Calendar No. 23, Appeal No. 2009-0633. Mr.

6   Greene.

7   MR. GREENE: Good morning.

8   JUDGE BLANKENSHIP: Good morning, Mr. Greene. You have 20

9   minutes, and you can begin whenever you like.

10   MR. GREENE: Great. Thank you very much.

11   Good morning, Your Honors. The reference relied on by the

12   Examiner, Burfeind, does not anticipate the independent claims at least

13   because Burfeind does not use a device type to identify a user as recited in

14   the independent claims. Rather, most Burfeind does the opposite. It, it uses

15   a user to identify a device type.

16   In particular, with reference to figure 4 of Burfeind, Burfeind

17   describes a system that generates personalized weather messages for a user.

18   To that end, Burfeind collects personal preference information about a

19   subscriber or user and stores that in the personal preference database for 26.

20   Those personal preferences include items such as activities the user is going

21   to engage in, the location of those activities, calendar information about

22   when the user is going to engage in those activities and delivery devices to

23   which the personalized weather messages should be delivered to the user.

24   The system in Burfeind also collects weather information and stores

25   that in the databases such as the radar database, satellite database, gridded

1   database and the raw weather database. The personal weather text generator

2   470 then accesses these various databases to generate the personalized

3   weather messages for the user. For example, the personalized weather text

4   generator accesses the activities, locations of the activities and the calendar

5   information and the weather information to generate appropriate messages

6   regarding the weather for the, the activities the user is going to be engaged

7   in.

8   After that message is generated, the multimedia device interface 480

9   accesses the delivery devices listed in the personal preferences so that it can

10   format the message to those devices, and then it delivers the formatted

11   messages to the devices. The Examiner has, has apparently equated these

12   personal preferences and the list of delivery devices to the recited targeting

13   roles and the list of the devices in the personal preferences to the recited

14   target type of access device.

15   JUDGE LUCAS: Okay. I, I am surprised, Mr. Greene, considering

16   column 5 where it talks about different types of delivery through different

17   output media, pagers, text to voice, PDAs, computers, e-mails, display

18   monitors, blah blah blah, that you say that there is no customization for the

19   different types of devices. I, I wonder how you're reading that.

20   MR. GREENE: I -- if I did say there is no customization for the

21   different types of devices, then I misspoke. As I indicated when, when I was

22   describing Burfeind's system, it does take the message, the personal weather

23   text generator, and then customizes it for the particular delivery type of

24   device, and as you noted he -- I think he does provide examples. I don't

25   have them at the tip of my tongue right now about how it could be, you

1   know, in voice and various other formats depending on the devices, but I,

2   but I think that's somewhat orthogonal to our point of what, what Burfeind

3   isn't showing, and that is he's not using those devices in that personal

4   preference database to identify a user or a subset of users as we've indicated

5   in our claim.

6   In our, in our claim we have the, the targeting rules that designate a

7   target type of access device, and those targeting rules are then applied to

8   context information to identify a subset of, of the one or more online users.

9   In Burfeind instead, you have the user who is associated with the personal

10   preferences and, and so at most I would say the user is used to look up those

11   personal preferences which indicate the device that we're going to format the

12   message for. The device isn't used to first identify the user which I

13   believe -- which is the, the point we've been trying to make and that I was

14   trying --

15   JUDGE LUCAS: Could you --

16   MR. GREENE: -- to go through now. Does that --

17   JUDGE LUCAS: -- favor me by pointing out where in the claim you

18   use the word first?

19   MR. GREENE: First?

20   JUDGE LUCAS: Yes. You just said that you first use the targeting

21   rules.

22   MR. GREENE: Okay. We -- well, I don't believe we used the word

23   first, granted. We have the targeting rules that designate a target type of

24   access device. We then -- well, we acquire context information regarding

25   the one or more online users. That context information indicates at least a --

1   at least one of a client type of access device. The targeting rules are applied

2   to that context information to identify a subset of the one or more online

3   users.

4   I mean we don't see that process being done in Burfeind. Burfeind

5   doesn't have a set of targeting rules with target types of devices, contact

6   information that, that indicates a client type of access device and then

7   applying those targeting rules to the context information to identify a subset

8   of the users. Burfeind doesn't describe using access device or targeting rules

9   to identify the user. Rather, for a given user, the personal preferences are

10   accessed, the message is generated, and then we look up the device that,

11   that's associated with the user. So the device in the personal preferences is

12   never being used to identify the user.

13   Or to, to back up even further, those personal preferences aren't even

14   being used to identify the user. If we, if we agree that we can equate those

15   personal preferences to the targeting rules, those personal preferences are not

16   being applied to context information to identify the user. Rather, for a given

17   user, those personal preferences are simply looked up which would, would

18   even lead me to, to a second point. I mean Burfeind only includes one kind

19   of or one indication or designation of the types of devices in the personal

20   preferences, so even if we equate the personal preferences to the targeting

21   rules, we then wouldn't have context information that indicates a client type

22   of device. Or conversely if we equate that indication or designation of the

23   types of, of devices in the personal preferences to the context information

24   and client type of access device, then I don't believe Burfeind has targeting

25   rules that designate a target type of access device. There is only one

1   indication or designation of, of devices in Burfeind, whereas we have two

2   recited in our, our claim also.

3   Have I, have I answered your question?

4   JUDGE LUCAS: Continue, please.

5   MR. GREENE: Referring back again to, to figure 4 and the, the point

6   that I was originally making which I've touched on is that we -- that the

7   personal weather text generator accesses these personal preferences for a

8   given user, develops the message and then it -- or then it accesses the

9   devices for that user to format the message for that user. So it's the user

10   that's being relied upon to figure out what the appropriate delivery device is.

11   We're not doing it the other way around where we're using those delivery

12   devices to figure out the appropriate user to deliver the message to. And

13   because those personal preferences aren't being used or applied to any

14   context information to identify a subset of the online users as we've recited

15   in our independent claims, Burfeind doesn't anticipate our independent

16   claims.

17   And with that, if there are no questions, those are the -- that's the

18   salient points we wanted to make.

19   JUDGE LUCAS: No. Thank you.

20   JUDGE BLANKENSHIP: All right. Thank you.

21   (Whereupon, the hearing concluded on March 18, 2009.)